

# **ARTICLE 1**

## **INTRODUCTORY PROVISIONS**

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## Chapter 1                      Introductory Provisions

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### **11-1-1:            Title and Authority**

[Title 11](#) of the City Code shall be known and cited as the “[City of Mesa Zoning Ordinance](#),” “Zoning Ordinance of the City of Mesa,” “Zoning Ordinance”, or “this Ordinance”. Whenever reference is made to any portion of the ordinance set out in this [Title 11](#), or of any other law or ordinance, the reference applies to all amendments and additions to this Title made hereafter.

### **11-1-2:            Purpose**

The purpose of this [Ordinance](#) is to implement the [City’s General Plan](#) and to protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, this Ordinance is intended to:

- A.     Provide a guide for the physical development of the City in a manner that progressively achieves the arrangement of land uses depicted in the [General Plan](#), consistent with the goals and policies of the [General Plan](#).
- B.     Promote combinations and mixtures of harmonious land uses, limit the effects of incompatible land uses, and do so in a manner that reduces transportation requirements, promotes livability, and raises the quality of life for residents, guests, students, workers, business owners, tourists and other visitors.
- C.     Foster a harmonious, convenient and workable relationship among land uses and ensure compatible infill development, consistent with the [General Plan](#).
- D.     Support economic development and job creation.
- E.     Provide for the diverse housing needs of all economic segments of the community.
- F.     Promote high quality architecture and design.

- G. Promote the stability of existing land uses that conform to the [General Plan](#), protecting them from inharmonious influences and harmful intrusions.
- H. Promote a safe and efficient traffic circulation system; foster the provision of adequate off-street parking and off-street loading facilities, bicycle facilities and pedestrian amenities, and support a multi-modal transportation system. Encourage improved connectivity between residential, commercial, educational, employment and recreational uses.
- I. Facilitate the appropriate location of community facilities, institutions and parks and recreational areas.
- J. Protect and enhance real property values.
- K. Promote environmental quality and encourage development patterns that meet the following sustainability goals: improve air quality; improve energy conservation and renewable energy production; integrate land use and mobility; allow [housing diversity](#); improve community health and safety; increase water conservation; and mitigate stormwater pollution.
- L. Provide diverse settings, with a wide-range of employment, housing and commercial options and a variety of intensities of land uses.
- M. Provide development options that are designed in an aesthetically pleasing manner, incorporate public spaces in manners that are integral to projects, and provide effective transitions between abutting parcels appropriate to the context of the circumstance.
- N. Safeguard and enhance the appearance of the City.
- O. Define duties and powers of administrative bodies and officers responsible for implementation of this [Ordinance](#).

### 11-1-3: Structure of Zoning Regulations

- A. **Organization of Regulations.** This Ordinance consists of eight articles:

[Article 1: Introductory Provisions](#)

[Article 2: Base Zones](#)

[Article 3: Overlay Zones](#)

[Article 4: Development Regulations](#)

[Article 5: Sign Regulations](#)

[Article 6: Form-Based Development Regulations](#)

[Article 7: Administration and Permits](#)

[Article 8: General Terms](#)

- B. **Types of Regulations.** Four types of zoning regulations control the use and development of property in the City:
1. ***Land Use Regulations.*** These regulations specify land uses permitted, conditionally permitted or specifically prohibited in each zone, and include special requirements, if any, applicable to specific uses. Land use regulations for base zones are in [Article 2](#) of this Ordinance and in [Article 3](#) for overlay zone regulations. Certain regulations, applicable in some or all of the districts, and performance standards that govern special uses, are in [Article 4](#). When used in conjunction with an adopted regulating plan, use standards related to specific building forms located within specified transects are found in [Article 6](#).
  2. ***Development Regulations.*** These regulations control the height, bulk, density, intensity, location and appearance of structures on development sites. Development regulations for base zones are in [Article 2](#) of this Ordinance. The regulations for overlay zones are in [Article 3](#). Certain development regulations, applicable to some or all zones are in [Article 4](#). These include regulations for specific uses, development and site regulations, performance standards, parking, sign, antennas and wireless telecommunications and nonconforming uses. Sign regulations are found in [Article 5](#). Certain other development regulations principally oriented on building form and building placement (also known as [Form-Based Code](#)) are found in [Article 6](#).
  3. ***Administrative Regulations.*** These regulations contain detailed procedures for the administration of this [Ordinance](#), and include responsibilities of the planning agency, common procedures, processes and standards for discretionary entitlement applications and other permits. Administrative regulations are found in [Article 7](#).
  4. ***General Terms and Use Classifications.*** [Article 8](#) provides a list of use classifications and a list of terms and definitions used in this Ordinance.

#### 11-1-4: General Rules for Applicability of Zoning Regulations

- A. **Applicability to Property.** This [Ordinance](#) shall apply, to the extent permitted by law, to all property within the [City of Mesa](#), including all uses, structures and land owned by any private person, firm, corporation or organization, or local, state or federal agencies. Any governmental agency shall be exempt from the provisions of this Ordinance only to the extent that such property may not be lawfully regulated by the City of Mesa.
- B. **Compliance with Regulations.** No land shall be used, and no structure shall be constructed, occupied, enlarged, altered, demolished or moved in any zoning district, except in accordance with the provisions of this [Ordinance](#).

- C. **Provisions Interpreted as Minimum Requirements.** In interpreting and applying the provisions of [Title 11](#), the applicant shall meet or exceed the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare.
- D. **Relation to Other Regulations.** The regulations of this [Ordinance](#) and requirements or conditions imposed pursuant to this Ordinance shall not supersede any other regulations or requirements adopted or imposed by the [State of Arizona](#), or any federal agency that has jurisdiction by law over uses and development authorized by this Ordinance. All uses and development authorized by this Ordinance shall comply with all other such regulations and requirements. Where conflict occurs between the provisions of the Ordinance and any other City Ordinance, chapter, resolution, guideline or regulation, the more restrictive provisions shall control, unless otherwise specified.
- E. **Relation to Private Agreements.** The provisions of this [Ordinance](#) shall apply regardless of any private agreements in the event that the provisions of this Ordinance are more restrictive. Otherwise, this Ordinance shall not interfere with, affect or annul any recorded easement, covenant, or other private agreement now in effect, unless a Development Agreement has been authorized by the [City Council](#) and executed by recording the Development Agreement with the [County Recorder's Office](#), pursuant to [ARS 9-500.05](#).

#### 11-1-5: Consistency with the General Plan

Each application for [Special Use Permits](#), [Council Use Permits](#), site plan review, site plan modification or request to modify the zoning classification of a parcel of land shall be reviewed and evaluated for consistency with the [City of Mesa General Plan](#). With regard to requests to modify the zoning classification of specific parcels of land, where there is a conflict between this Ordinance and the General Plan, the General Plan shall prevail.

#### 11-1-6: Effect on Previously Approved Projects and Projects in Progress

Upon the effective date of this [Ordinance](#), the following requirements shall apply to all properties:

A. **Violations Continue.**

Any violation of the [Zoning Ordinance](#) previously in effect will continue to be a violation under this Ordinance and shall be subject to penalties and enforcement under [Title 11, Chapter 79](#) unless the use, development, construction or other activity complies with the provisions of this Ordinance.

B. **Projects with Approvals or Permits.**

1. ***Design Review Approved Prior to Effective Date of this Ordinance.*** A project which has received Design Review approval prior to the effective date of the this

Ordinance may file an application for a building permit in compliance with the approved [Design Review](#) plan and conditions of approval, even if the project does not comply with the provisions of the this Ordinance. Upon approval of the construction plans, a building permit may be issued. The [Design Review](#) approval for projects approved prior to the effective date of this Ordinance shall be valid for 3 years from the effective date of approval of this Ordinance. No time extensions shall be permitted.

2. ***Preliminary Subdivision Plat Approved Prior to Effective Date of the This Ordinance.*** A project which has a preliminary plat approved prior to the effective date of the this [Ordinance](#) may file an application for a final subdivision plat and improvement plan approval, even if the subdivision does not fully comply with the provisions of the this Ordinance. If a final plat application is not filed within 1 year, unless extended as provided by the [Subdivision Regulations](#), of the date of preliminary plat approval, the preliminary plat shall expire. No time extensions shall be permitted. Subsequent preliminary plat applications shall comply with this Ordinance.
3. ***Conditional Use Permit Approved Prior to Effective Date of this Ordinance, No Design Review Required.*** A project which has received a conditional use permit (including [Special Use Permits](#) or [Council Use Permits](#) prior to the effective date of this Ordinance may file an application for a building permit, even if the project does not fully comply with the provisions of the this Ordinance. If a building permit application is not filed within 1 year of the date of the conditional use permit approval, the use permit shall expire. No time extensions shall be permitted.
4. ***Conditional Use Permit Approved Prior to Effective Date of this Ordinance, Design Review Required.*** A project which has an approved conditional use permit (including [Special Use Permits](#) or [Council Use Permits](#) may file an application for [Design Review](#) even if the use does not fully comply with the provisions of the this Ordinance. If a Design Review application is not filed within 1 year of the date of the conditional use permit approval, the conditional use permit shall expire. If an application is made for design review approval within 1 year and that approval is received, the conditional use permit shall remain valid for a period of 1 more year provided a building permit is applied for and construction commences within that year. No time extensions shall be permitted. Subsequent applications for design review shall comply with this Ordinance.
5. ***Building Permit Application Filed Prior to Effective Date of this Ordinance.*** Any building, structure, or sign for which a completed [building permit application](#) is filed prior to the effective date of the this [Ordinance](#) may be issued a building permit and may be constructed in compliance with the building permit and other applicable approvals, permits and conditions, even if such building, structure or sign does not fully comply with the this Ordinance. If construction has not commenced in compliance with the applicable permit terms, the [Building Official](#) may grant an extension pursuant to the provisions of the building code. If the building, structure, or sign has not been completed before the building permit or any extension of the permit expires, then the building, structure, or sign shall be constructed, completed or occupied only in compliance with the this Ordinance.
6. ***Building Permit Issued Prior to Effective Date of this Ordinance.*** Any building, structure, or sign for which a lawful building permit is issued prior to the effective date of this Ordinance may be completed in conformance with the permit and other

applicable permits and conditions, even if such building, structure or sign does not fully comply with this Ordinance. If construction has not commenced in compliance with the applicable permit terms, the [Building Official](#) may grant an extension pursuant to the provisions of the building code. If the building, structure, or sign has not been completed in conformance with the building permit and any extension thereof, then the building, structure, or sign shall be constructed, completed or occupied only in compliance with this Ordinance.

**C. Planning Applications Filed Prior to the Effective Date of this Ordinance.**

1. ***Applications for Design Review, Site Plan Review and Preliminary Plats, or Modifications to Previously Approved Applications, Submitted Prior to the Effective Date of this Ordinance.*** Complete applications filed prior to the effective date of this Ordinance may be approved under the provisions of the [Zoning Ordinance](#) in place prior to the effective date of this Ordinance. Applicants may elect to develop under the provisions of this Ordinance, but in that case shall comply with all provisions of this Ordinance. If a building permit application is not filed within 3 years of the date of approval of the Design Review, or 1-year after the approval of the preliminary plat, the approval shall expire. No time extensions shall be permitted, unless approval of the preliminary plat is extended, based on the requirements of the [Subdivision Regulations \(Title 9, Chapter 6 of the Mesa City Code\)](#).
2. ***Applications for Conditional Use Permit Submitted Prior to the Effective Date of this Ordinance.*** Complete applications filed prior to the effective date of this Ordinance may be approved under the provisions of the [Zoning Ordinance](#) in place prior to the effective date of this Ordinance. Applicants may elect to develop under the provisions of this Ordinance, but in that case shall comply with all provisions of this Ordinance. If a building permit application is not filed within 1 year of the date of approval of the use permit, the approval shall expire. If the building permit application expires, or once issued, the building permit expires, the conditional use permit approval shall also expire. No time extensions shall be permitted.
3. ***Applications for Rezoning Filed Prior to the Effective Date of this Ordinance.*** Rezoning applications filed prior to the effective date of this Ordinance shall be governed by the provisions of the [Zoning Ordinance](#) in place prior to the effective date of this Ordinance. The applicant may elect to comply with this Ordinance by submitting a written preference when filing the application for rezoning with the [Planning Division](#) office, but in that case shall comply with all provisions of this Ordinance. If a building permit application is not filed within 3 years of the date of the effective date of this Ordinance, the approval to use the provisions of the previous [Zoning Ordinance](#) shall expire. If the building permit application expires, or once issued, the building permit expires, then any plans adopted as part of the approved rezoning shall be modified to comply with the provisions of this Ordinance. No time extensions shall be permitted.

**D. Partially Constructed Project.**

If a project has begun construction or has been issued a building permit based on conditions described in Paragraphs B or C of this Section (above), but has started and stopped construction midway through the development of the site without receiving a completed certificate of occupancy, or has not completed all requirements associated with the project, such as installation



of perimeter landscaping or completion of paving requirements, then such projects shall be allowed 3 years from the effective date of this Ordinance to restart and complete the remainder of the project based on the approved plan and construction permit(s). In the event the project is not restarted, or actively under construction before the 3 year period specified expires, the project shall have the option to be brought entirely into compliance with requirements of this Ordinance, or to apply for and be subject to all conditions and requirements of an approved [Substantial Compliance Improvement Permit](#) (SCIP), as specified in [Title 11, Chapter 73](#) of this ordinance.

**E. Development of Projects Located within an Existing PC District, or within a PAD, DMP or BIZ Overlay Zoning Districts.**

A lot or parcel located within the [Planned Community \(PC\) District](#), or within overlay districts such as [Planned Area Development](#) (PAD), Development Master Plan (DMP, under the zoning ordinance in effect prior to September 3, 2011), or [Bonus Intensity Zone \(BIZ\)](#), subject to a preliminary development plan, standards and/or with conditions of approval, and adopted prior to the effective date of the Zoning Code, shall be developed in accordance with the approved preliminary development plan, standards, and/or conditions of approval. The development standards and requirements of this Ordinance shall apply if not specifically modified by the adopted plan submitted, associated or conditioned with the ordinance adopting the [PAD/BIZ/DMP](#) overlay zoning district or the PC District. This provision is not intended to limit minor modifications to approved plans approved by the Planning Director.

**F. Planning Applications Filed After the Effective Date of the This Ordinance.**

All applications for rezoning, design review, use permits, and preliminary subdivision plats filed after the effective date of this Ordinance, including modifications and amendments, shall conform to the provisions of this Ordinance.

**G. Properties for Which the Owner Believes the Adoption of this Ordinance has a Direct Effect Upon and has Caused a Diminution of Value Upon a Specific Property.**

If a property owner has reason to believe the adoption of this Ordinance and the requirement(s) related to this ordinance has directly affected the property by a diminution in value, the property owner may file an application for a waiver of requirements from this Ordinance, in favor of all requirements of the [Zoning Ordinance](#) in effect previous to September 3, 2011 being applicable. Applications requesting this waiver must be filed before September 3, 2014.

### **11-1-7: Severability**

If any section, subsection, paragraph, sentence, clause or phrase of this [Ordinance](#) is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The [City of Mesa](#) hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof, regardless of the fact that any or one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

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